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## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

**[EPA-R08-OAR-2018-0353; FRL-9991-76-Region 8]**

#### **Clean Data Determination; Provo, Utah 2006 Fine Particulate Matter Standards Nonattainment Area**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is finalizing a clean data determination (CDD) for the 2006 24-hour fine particulate matter (PM<sub>2.5</sub>) Provo, Utah (UT) nonattainment area (NAA). The determination was based upon quality-assured, quality-controlled and certified ambient air monitoring data for the period 2015–2017; available in the EPA's Air Quality System (AQS) database, showing the area has monitored attainment of the 2006 24-hour PM<sub>2.5</sub> National Ambient Air Quality Standards (NAAQS). Based on this determination that the Provo, UT NAA is currently attaining the 24-hour PM<sub>2.5</sub> NAAQS, the EPA is also finalizing a determination that the obligation for Utah to make submissions to meet certain Clean Air Act (CAA or the Act) requirements related to attainment of the NAAQS for this area is not applicable for as long as the area continues to attain the NAAQS.

**DATES:** This rule is effective on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-R08-OAR-2018-0353. All documents in the docket are listed on the <http://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as

copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <http://www.regulations.gov>, or please contact the person identified in the “For Further Information Contact” section for additional availability information.

**FOR FURTHER INFORMATION CONTACT:** Crystal Ostigaard, Air Program, U.S. EPA, Region 8, Mailcode 8P-AR, 1595 Wynkoop Street, Denver, Colorado 80202-1129, (303) 312-6602, [ostigaard.crystal@epa.gov](mailto:ostigaard.crystal@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document “we,” “us,” and “our” means the EPA.

## **I. Background**

On October 17, 2006 (71 FR 61144), the EPA revised the level of the 24-hour PM<sub>2.5</sub> NAAQS, lowering the primary and secondary standards from the 1997 standard of 65 micrograms per cubic meter (µg/m<sup>3</sup>) to 35 µg/m<sup>3</sup>. On November 13, 2009 (74 FR 58688), the EPA designated several areas as nonattainment for the 24-hour PM<sub>2.5</sub> NAAQS of 35 µg/m<sup>3</sup>, including the Provo, UT NAA.

On February 12, 2019 (84 FR 3373), the EPA proposed a CDD for the 2006 24-hour PM<sub>2.5</sub> Provo, UT NAA based on the area’s current attainment of the standard. Pursuant to 40 CFR 51.1015(a) and (b), the EPA proposed to determine that the obligation to submit any remaining attainment-related state implementation plan (SIP) revisions arising from classification of the Provo, UT area as a Moderate NAA and subsequent reclassification as a Serious NAA under subpart 4 of part D (of title I of the Act) for the 2006 24-hour PM<sub>2.5</sub> NAAQS is not applicable for so long as the area continues to attain the 2006 24-hour PM<sub>2.5</sub> NAAQS. However, the CDD does not suspend Utah Division of Air Quality’s (UDAQ’s) obligation to

submit nonattainment-related requirements, which includes the base-year emission inventory, nonattainment new source review (NNSR) revisions, and best available control measures/best available control technologies (BACM/BACT). This action does not constitute a redesignation to attainment under CAA section 107(d)(3). Additional detail can be found in the February 12, 2019 (84 FR 3373) proposed action.

## **II. Response to Comments**

The EPA did not receive any comments on the proposed action.

## **III. Final Action**

The EPA is finalizing a CDD for the 2006 24-hour PM<sub>2.5</sub> Provo, UT NAA based on the area's current attainment of the standard. Pursuant to 40 CFR 51.1015(a) and (b), the EPA is determining that the obligation to submit any remaining attainment-related SIP revisions arising from classification of the Provo, UT area as a Moderate NAA and subsequent reclassification as a Serious NAA under subpart 4 of part D (of title I of the Act) for the 2006 24-hour PM<sub>2.5</sub> NAAQS is not applicable for so long as the area continues to attain the 2006 24-hour PM<sub>2.5</sub> NAAQS. In particular, as discussed in the proposed action (84 FR 3373), the obligation for UDAQ to submit attainment demonstrations, projected emissions inventories, RACM (including RACT), reasonable further progress (RFP) plans, motor vehicle emissions budgets (MVEB), quantitative milestones, and contingency measures, for the Provo, UT area are suspended until such time as: (1) The area is redesignated to attainment, after which such requirements are permanently discharged; or (2) the EPA determines that the area has re-violated the PM<sub>2.5</sub> NAAQS, at which time the state shall submit such attainment plan elements for the Moderate and Serious NAA plans by a future date to be determined by the EPA and announced through

publication in the **Federal Register** at the time the EPA determines the area is violating the PM<sub>2.5</sub> NAAQS.

However, the CDD does not suspend UDAQ's obligation to submit non-attainment-related requirements, which includes the base-year emission inventory, NNSR revisions, and BACM/BACT. This action does not constitute a redesignation to attainment under CAA section 107(d)(3).

#### **IV. Statutory and Executive Order Reviews**

This action finalizes a determination of attainment based on air quality and suspends certain federal requirements, and thus would not impose additional requirements beyond those imposed by state law. For this reason, this final action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not expected to be an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because this action is not significant under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);

- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States

prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

#### **List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: April 2, 2019.

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Debra Thomas,  
Acting Regional Administrator,  
Region 8.